

ONSITE

WORKERS

PROGRESS UPDATE: MYLEAVE'S IT SYSTEM AND WORKER PORTAL PROJECT

As part of MyLeave's journey towards providing improved systems and services to our stakeholders, we now have an electronic claim lodgement option. These forms have built in workflow to route the form from worker, to employer, to MyLeave without having to print and email, or fill and forward PDF forms.

An info-sheet outlining the process and the web-form can be found on our website under publications and forms.

Despite some delays, as of December 2022 we have recommenced development of our new Customer Relationship Management system and our outward facing Worker and Employer portals.

Once launched, you will be able to submit and manage claims through your MyLeave portal, reset your password, set up third party authorities and provide us with your interstate service statements all in the one place.

To ensure your personal information is secure and nobody is unlawfully claiming your entitlements, multi factor authentication will be required when accessing your account, and ID document verification steps will be added as a part of the claims process. Each time you make a claim you will need to verify your identity before we process your claim.

We will contact you as functionality is released to let you know the next steps.

Last year \$36.1 million in long service leave entitlements were paid so workers like you could take well-earned holidays.

4,242 workers took a long service leave benefit.


YOUR LONG SERVICE LEAVE IS IN GOOD HANDS

MyLeave's 2022 Annual Report tabled in Parliament shows in the financial year ending 30 June 2022, that MyLeave maintains a strong financial position. This enables the costs to the construction industry to be minimised whilst ensuring that long service leave benefits are provided for workers.

MyLeave continues to process a significant number of payments to workers and in the 12 months (ending 30 June 2022), MyLeave made 4,242 worker payments totalling \$36.1 million. This was an increase on the 2021 figures of 3,670 payments totalling \$29.1 million.


WHAT HAPPENED IN 2022

 **111,281**
workers registered with MyLeave

 **4,242**
workers received a benefit from MyLeave

 **5,215**
average number of registered employers

 **\$36.1 million**
paid in worker benefits


 **\$12.3 million**
Contribution levy income generated from employers

 **\$3.6 billion**
construction worker wages

 **11.4 million**
service days reported for workers

 **\$379 million**
accrued long service leave liability

 **\$596 million**
in cash and investments

 **\$46.84**
per year average administrative cost per registered construction industry worker

 **-7.1%**
investment return



Good to
know...

COMMON QUESTIONS

Employees eligible for MyLeave

Only employees working on-site in classifications of work listed in a prescribed award are eligible for MyLeave. Workers employed in an employer's own workshop or yard, and administration, clerical and managerial employees are not eligible for MyLeave. If you are unsure of your eligibility, please contact a member of our Compliance and Advisory team.

Left the industry? No longer working as an employee? No longer accumulating service days? What happens to my accumulated service days?

MyLeave define 1 year of service as 220 service days, in an eligible job role in the Construction Industry.

1 year of employment is not necessarily considered to be 1 year of service.

Where an employee has not yet reached an entitlement (7 years of service / 1,540 service days) the following rules apply.

If you have accumulated 1,100 service days or less, your accumulated service days will be held for 2 years.

If you have accumulated 1,101 service days or more, your accumulated service days will be held for 4 years.

If you re-enter the industry as an employee before the time period expires you will not lose any previously accumulated service. If you do not re-enter the industry before the time expires then the service you have accumulated to date will be lost.

MyLeave has no discretion regarding extinguishing service days. The legislation governing MyLeave provides that if an employee does not recommence in the industry as an employee before the time allowed out of the industry expires, then the service days accumulated **must be** cancelled regardless of the circumstances.

If you move to a position, with the same employer, which is not eligible for MyLeave (i.e. an administration or managerial role), your employer cannot contribute for you and you will cease to accrue service days with MyLeave. In this situation your long

service leave accrual would become the responsibility of your employer under the Long Service Leave Act 1958 with your service accrual being from the date you started with the company (for long service leave accrual purposes). If you qualify, your employer should pay you direct and can make a claim for recovery for service they have contributed to MyLeave for you. Where you have service from prior employers, if you did not have a standalone entitlement with MyLeave prior to becoming ineligible, those days are subject to MyLeave's deregistration rules and will be extinguished after the appropriate 2- or 4-year period. If you did have a standalone entitlement with MyLeave prior to becoming ineligible, MyLeave will pay you any entitlement that you have from Service Days reported by prior employers.

If for any reason you terminate your employment with that employer, the above rules will apply regarding cancellation of service days from the last Service Days reported for you i.e. after 2 or 4 years.

What happens to the monies paid in by my employers if I leave the Industry?

MyLeave does not operate like superannuation. Employees accumulate days of service, not monies.

When an employee has accumulated sufficient days of service to obtain a benefit (minimum 7 years of service / 1,540 service days), then that benefit is paid out using ordinary pay rates based on the average weekly rate of pay over the last 220 days of service. The amount paid out is not based on the contributions paid in by employers.

Where employees leave the industry or become ineligible before attaining a benefit, the service days accumulated to date are lost after the appropriate 2- or 4-year period. Any surpluses generated as a result are offset against MyLeave's total long service leave liabilities and assist in reducing the contribution levy payable by employers.

I am an apprentice, am I eligible for MyLeave?

Yes, apprentices working in an eligible classification of work should be included on your employers returns with service days accruing towards an entitlement. There is no cost to your employer while you are an apprentice.

When can I apply for long service leave?

As an employee, once you have accumulated 10 years of service (2,200 WA service days), you are entitled to $8\frac{2}{3}$ weeks paid long service leave. You can also request a pro rata (proportional) payout after 7 years of service (1,540 WA service days).

Note that by claiming a payment on termination of employment you will break your service for long service leave purposes.

This means that you must work a further 7 years in the construction industry before you once again qualify for any further benefit from MyLeave.

Please note that for the initial 10 years of long service leave entitlement ($8\frac{2}{3}$ weeks) you can take leave on only 3 occasions and the minimum period of leave is 1 week.

If you move to another State, your WA service can count in that State towards a long service leave benefit.

Please note that you should allow a minimum period of 2-3 weeks for MyLeave to process and approve your claim.

Can I cash in my long service leave by applying for my long service leave and then continue working?

No. But if you have a minimum of 7 years of service accrued you can be paid out your entitlement on termination of your employment.

Audit of entitlement

Please be aware that while we believe your entitlement information is accurate, it is subject to final verification with your employers at the time of processing your claim for long service leave payment.

Working Directors

Working Directors are a special category of employee and the definition of 'ordinary rate of pay' poses particular complications regarding the treatment of Working Directors.



MANAGE YOUR LONG SERVICE LEAVE ONLINE

For Working Directors, the ordinary rate of pay is the rate of pay being received by Directors as employees of their business. This would be the amount that they receive as wages on a defined, regular, at least monthly basis, for which they pay tax on a PAYG basis, have wage records for and can present an ATO payment summary at the end of each financial year.

One off adjustments during or at the end of the financial year are not included, nor can they be averaged out over the year.

Working Directors who do not draw a regular wage do not meet these requirements and their eligibility for MyLeave is in doubt.

Working Directors who are in this situation or are unsure of these arrangements should contact our Compliance and Advisory team to discuss the matter.

Quarterly returns are only to record service days when Working Directors are on-site and working in a prescribed classification.

Which Employers are required to register with MyLeave?

Any Employer who engages eligible employees in the building and construction industry, as defined in legislation, is required by law to register with MyLeave and pay contributions – this includes labour hire agencies. Businesses that have only managerial, office, workshop, or non-site-based supervisory staff are not included.

Businesses that consist only of a sole proprietor or partners that do not employ anyone else are also excluded. To be included, an employer must have employees working on-site in classifications of work listed in a prescribed award.

Employee or subcontractor?

In cases where the situation is not clear, MyLeave has developed guidelines to assist in the determination of the matter.

Also, in February 2022, the High Court of Australia [2022] HCA 1 determined that a labourer engaged by a labour-hire company was an employee and not an independent contractor.

If you have any queries related to these matters, please refer to the guidance material under the "Subcontractor or Employee" section under the "MyLeave Employer Information Page" on our website.

www.myleave.wa.gov.au



Track your Service Records

View your recorded days of service so you can be sure your employer is correctly contributing to MyLeave on your behalf. Service records are updated online on a quarterly basis. An Annual Notice will be sent to you in March each year.

Check your Annual Notice is correct

Check your Annual Notice carefully to ensure your service records are correct. Notify MyLeave immediately if there are any problems as employers are only required to keep pay records for 7 years. It can be extremely difficult to verify claims of service if the required records are no longer available. MyLeave will not accept claims for large periods of past unallocated service with an employer which cannot be verified against employer records.

Start your long service leave application

If you are planning to take long service leave, search "MyLeave Worker Information Page" on Google and look at the "How to make a claim" section. Information on how the claim process works and a convenient web-form are available to lodge your claim online.

Once we receive your application, we will do our best to get your long service leave payment to you as quickly as possible.

Claims normally take 2-3 weeks to process but during in peak periods like Christmas, processing times can exceed 3 weeks.

Update your Contact details

Please let us know of any changes to your contact details as soon as possible. If we can't get in touch, it isn't possible for us to send you your Annual Notice or important information you might need to know.



Hot Topics



What do I do if I think that I have missing service?

Please contact us as soon as you notice that an employer has not contributed to MyLeave on your behalf. You can lodge a days of service query through your online web portal or using a days of service query form from our website. Service older than 7 years is less likely to be located and verified so please let us know about missing service as soon as possible so that we have the best chance of ensuring that you get your full entitlement.

What are the benefits?

The benefits are 8 $\frac{2}{3}$ weeks leave after 10 years (2,200 WA service days) of service.

When you have accumulated 7 years of service (1,540 WA service days) a pro rata (proportional) benefit of 6 weeks can be

claimed. You may take this leave with the approval of your employer. Benefits continue to accrue until entitlement is utilised or claimed upon termination as a lump sum payment.

If you have not accumulated the minimum amount of service required to obtain a benefit, regardless of the circumstances, you are not entitled to any payment from MyLeave. MyLeave has no discretion in this matter.

Interstate service - portability between States

All construction industry long service Schemes are party to a reciprocal arrangement. This covers all States and Territories except the Christmas and Cocos Keeling Islands. Please refer to MyLeave regarding service on Christmas and Cocos Keeling Islands if this is applicable to you.

This arrangement allows you to accumulate service no matter which State you have worked in. When you are eligible for a payment in the State you are currently working in you then make a claim in that State.

For example, if you are currently working in WA and previously had service in another State Scheme, where the service on the Annual Notices from WA and interstate add up to a minimum of 7 years of service and the service is deemed to be 'continuous' under the Scheme's rules, then you can make a claim via MyLeave.

If you are working in another State or Territory, please note that minimum service requirements and break-in-service rules before an entitlement is due vary between jurisdictions. It is recommended that you check what the requirements are in the State or Territory you are currently working in before making a claim.

NUMBER OF WORKERS REGISTERED



NUMBER OF LSL CLAIMS PROCESSED



VALUE OF LSL CLAIMS PAID



CONTACTING MYLEAVE

Website:	www.myleave.wa.gov.au
Email:	hi@myleave.wa.gov.au
Telephone:	(08) 9476 5400
Freecall:	1800 198 136 Mon - Fri 8:00am to 4:30pm
Address:	3rd Floor, 50 Colin Street, West Perth WA 6005
Postal Address:	PO Box 1333 West Perth WA 6872

WHO'S ON THE BOARD

Ms Susan Barrera
Chair

Representing employees
Mr Mick Buchan
Mr Steve McCartney
Ms Lisa Judge

Representing employers
Ms Joanne Alilovic
Mr John Gelavis
Ms Kate Schick

Board Members appointment
term expires 24 September
2023

INTERSTATE SCHEME WEBSITES

Northern Territory	www.ntbuild.com.au
Queensland	www.qleave.qld.gov.au
New South Wales	www.longservice.nsw.gov.au
Australian Capital Territory	www.actleave.act.gov.au
Victoria	www.coinvest.com.au
Tasmania	www.tasbuild.com.au
South Australia	www.portableleave.org.au